

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

STAFF REPORT

Hearing Date/Agenda Number
06-22-05 Item No. 3.b.

File Number
CP05-008

Application Type
Conditional Use Permit

Council District
6

Planning Area
Central

Assessor's Parcel Number(s)
261-01-075

PROJECT DESCRIPTION

Completed by: Erin Morris

Location: East side of North Morrison Avenue, 450 feet northerly of The Alameda

Gross Acreage: 0.22

Net Acreage: 0.22

Net Density: n/a

Existing Zoning: CO Commercial
Office Zoning District

Existing Use: Residential Care Facility with 14 resident beds and two
resident managers

Proposed Zoning: No change

Proposed Use: Residential Care Facility with 14 resident beds and
two resident managers

GENERAL PLAN

Land Use/Transportation Diagram Designation
Medium Density Residential (8-16 DU/AC)

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

North: Residential service facility

CO Commercial Office

East: Single-family and two-family residential

CO Commercial Office

South: Multi-family residential

CO Commercial Office

West: Multi-family and single-family residential

CO Commercial Office

ENVIRONMENTAL STATUS

☐ Environmental Impact Report found complete
☐ Negative Declaration circulated on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Annexation Title: College Park/ Burbank Sunol

Date: December 8, 1925

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: 06-15-05

Approved by: _____
☒ Action
☐ Recommendation

OWNER

Grace Scott
1749 Clarence Court
San Jose, CA 95124

APPLICANT

Criselda Palencia
Villa 2
402 Alvarado Street
San Leandro, CA. 94577

PUBLIC AGENCY COMMENTS RECEIVED

Department of Public Works

See attached memorandum

Other Departments and Agencies

See attached memorandum from the Fire Department

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Criselda Palencia, is requesting the subject Conditional Use Permit to allow a residential care facility for fourteen residents and two staff. Residential care facilities for seven or more residents require a Conditional Use Permit in the CO Commercial Office Zoning District. The proposed facility is located within an existing 1,935 square-foot single-family house on a 0.22 gross acre site. No physical changes are proposed to the site or structure.

The subject site is a nearly quarter-acre lot developed with the existing single-family residence and has been used as a residential care facility for eight years. The uses immediately adjacent to this lot are residential; however, the site is in close proximity to The Alameda which is fronted by properties containing a variety of commercial and light industrial uses. Surrounding land uses consist of a mixture of single- and multi-family residential.

Project Description

The project proposes to utilize the existing building to accommodate the residential care facility. The 1,935 square-foot house has a total of seven bedrooms, each proposed to house two persons, and a staff room which houses two staff, for a total of 16 persons, including staff. The state licensed care facility offers 24-hour monitored care for mentally ill adults between the ages of 18 and 59.

The site has been licensed by the State for 14 ambulatory residents ages 18 years to 59 years with two staff providing supervision and care on a full-time, 24-hour basis. Care includes supervision of daily activities including meals, medications, and activities of daily living such as bathing, dressing, and personal hygiene. According to the applicant, most of the residents stay in the facility during the day engaged in activities such as indoor games.

ENVIRONMENTAL REVIEW

Under the provisions of Section 15332 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California

Environmental Quality Act of 1970, as amended. The project involves a project on a site less than 5 acres in size in an urbanized area that complies with all applicable General Plan and Zoning Ordinance regulations.

GENERAL PLAN CONFORMANCE

The General Plan encourages infill development and the distribution of residential care facilities throughout the City, including appropriate residentially-designated locations. The Residential Land Use policies of the General Plan state that residential care facilities are appropriate on lands designated for residential densities exceeding 8 DU/AC. The subject site is designated Medium Density Residential (8-16 DU/AC) on the San José 2020 General Plan Land Use/Transportation Diagram. Based on this analysis, staff concludes that the use conforms to the San José 2020 General Plan Land Use/Transportation Diagram.

COMMUNITY OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the project with interested members of the public.

ANALYSIS

Land Use Compatibility

The site is ample in size, well landscaped, and in similar condition to those properties that adjoin it. Residents of the facility do not drive, minimizing vehicular traffic associated with the facility. Staff has not received any complaints about the residential care facility use, which has been operating at the subject site for eight years. Based on this analysis, staff concludes that the project will be compatible with the surrounding neighborhood.

Parking

The project plans provide four on-site parking spaces in the driveway serving the house. The Zoning Code requires five off-street parking spaces for a residential care facility with 14 clients and two staff but allows a parking reduction for residential care facilities if the number of off-street parking spaces provided adequately meets the needs of individual uses on the site. The four on-site parking spaces serve as visitor and staff parking and on-street parking is available in front of the subject site. The operators of the facility do not accept residents who own cars so there is no need for resident parking. Residents use public transportation or are transported by family or a social worker off-site for routine activities such as medical appointments, recreation, and church. Based on this analysis, staff concludes that the number of off-street parking spaces provided is adequate to meet the parking requirement of the Zoning Ordinance.

Housing Code Compliance

The Housing Code requires that all bedrooms have an area of not less than seventy square feet. Where more than two persons occupy a room used for sleeping purposes, the required floor area must be increased at the rate of fifty square feet for each occupant in excess of two. The project includes seven bedrooms which house two residents each and a staff room housing two staff.

Resident bedrooms range in size from 143 to 234 square feet. The staff room is 120 square feet in size. Based on this analysis, staff concludes that the project as proposed conforms to the room dimension minimums of the City's Housing Code.

Conclusion

Based on the analysis above, staff concludes that the proposed project, as conditioned, is consistent with the General Plan, compatible with the surrounding neighborhood, and consistent with City requirements for residential care facilities.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve the subject Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding the proposed project:

1. The applicant, Criselda Palencia, is requesting the subject Conditional Use Permit to allow a residential care facility for fourteen residents and two staff.
2. Residential care facilities for seven or more residents require a Conditional Use Permit in the CO Commercial Office Zoning District.
3. The proposed facility is located within an existing 1,935 square-foot single-family house on a 0.22 gross acre site. No physical changes are proposed to the site or structure.
4. The subject site is a nearly quarter-acre lot developed with the existing single-family residence and has been used as a residential care facility for eight years.
5. The uses immediately adjacent to this lot are residential. Surrounding land uses consist of a mixture of single- and multi-family residential.
6. The site is in close proximity to The Alameda which is fronted by properties containing a variety of commercial and light industrial uses.
7. The 1,935 square-foot house has a total of seven bedrooms, each proposed to house two persons, and a staff room which houses two staff, for a total of 16 persons, including staff.
8. The site has been licensed by the State for 14 ambulatory residents ages 18 years to 59 years with two staff providing supervision and care on a full-time, 24-hour basis.
9. Care includes supervision of daily activities including meals, medications, and activities of daily living such as bathing, dressing, and personal hygiene.
10. The General Plan encourages infill development and the distribution of residential care facilities throughout the City, including appropriate residentially-designated locations.

- The Residential Land Use policies of the General Plan state that residential care facilities are appropriate on lands designated for residential densities exceeding 8 DU/AC. The subject site is designated Medium Density Residential (8-16 DU/AC) on the San José 2020 General Plan Land Use/Transportation Diagram.
11. Residents of the facility do not drive, minimizing vehicular traffic associated with the facility.
 12. The project plans provide four on-site parking spaces in the driveway serving the house.
 13. The Zoning Code requires five off-street parking spaces for a residential care facility with 14 clients and two staff but allows a parking reduction for residential care facilities if the number of off-street parking spaces provided adequately meets the needs of individual uses on the site.
 14. The four on-site parking spaces serve as visitor and staff parking and on-street parking is available in front of the subject site.
 15. The operators of the facility do not accept residents who own cars so there is no need for resident parking. Residents use public transportation or are transported by family or a social worker off-site for routine activities such as medical appointments, recreation, and church.
 16. The draft Permit requires that the site be operated in conformance with the operation plan.
 17. The Housing Code requires that all bedrooms have an area of not less than seventy square feet. Where more than two persons occupy a room used for sleeping purposes, the required floor area must be increased at the rate of fifty square feet for each occupant in excess of two.
 18. The project includes seven bedrooms which house two residents each and a staff room housing two staff. Resident bedrooms range in size from 143 to 234 square feet. The staff room is 120 square feet in size.
 19. The project conforms to the room dimension minimums of the City's Housing Code, and can accommodate 14 residents and two staff.

The Planning Commission concludes and finds, based on the analysis of the above facts, that:

1. The proposed project is consistent with the adopted San Jose 2020 General Plan Land Use Transportation Diagram.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed use is compatible with the surrounding neighborhood.

Finally, based on the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
 - a) Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b) Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c) Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a) By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b) By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Payment of Recording Fees.** The fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted (payable to the County of Santa Clara Recorder) within **60 days** from the date of issuance of the resolution granting the permit. Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if

the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

2. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Villa 2 Adult Residential Facility," dated December 27, 2004, last revised on June 13, 2005, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24).
3. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final approved plan set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San Jose Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San Jose Landscape and Irrigation Guidelines.
5. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.
6. **Anti Litter.** The site and the adjoining street frontage shall be maintained free of litter, refuse, and debris.
7. **Lighting.** On-site lighting shall use low-pressure sodium fixtures and be designed, controlled, and maintained so that no light source is visible from outside of the property.
8. **Outdoor Storage.** No outdoor storage is permitted except in areas designated on the approved plan set.
9. **Refuse.** All trash shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
10. **Tree Removal.** No tree larger than 56 inches in circumference, at a height of 24 inches above grade, shall be removed without a Tree Removal Permit issued by the Director of Planning.
11. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP 05-008, shall be printed on all construction plans submitted to the Building Division.
12. **Minor Improvement Permit.** The public improvements to remove and replace uplifted sidewalk is conditioned as part of this permit and requires the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the

satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.

13. **Sewage Fees.** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
14. **State License.** The project shall comply with the applicable State of California License requirements for residential care facilities.
15. **Operation Plan.** The project shall be operated in conformance with the operation plan titled, "Plan of Operation" dated January 27, 2005. Any changes to this plan shall require additional permitting as deemed necessary by the Director of Planning.
16. **Vehicle Restriction.** Residents of the facility, except staff, shall not store private automobiles on or in the vicinity of the subject site.
17. **Limitation on Use.** This residential care facility shall be limited to 14 resident beds.
18. **Compliance Review.** A compliance review is required at the discretion of the Director of Planning based on complaints regarding the operation of the facility.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. The Director of Planning may approve a Permit Adjustment extending the permit for a period of up to two years.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance